

# State of Missouri

## Office of Secretary of State

Case No. AP-04-90

IN THE MATTER OF:

GEORGE J. KURTIS, CRD#2184319  
520 Liberty Avenue  
Williston Park, New York 11596,

Respondent

### **Consent Order**

WHEREAS, on November 23, 2004, the Missouri Securities Division filed a Petition For Administrative Relief, alleging cause for discipline or disqualification of George J. Kurtis.

1. Respondent and the Securities Division desire to settle the allegations and the matters raised by the staff of the Securities Division relating to the alleged violations by Respondent.
2. Respondent and the Securities Division consent to the issuance of this Consent Order and hereby stipulate that this Consent Order is in the public interest.
3. Respondent stipulates and agrees to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
4. Respondent waives his right to a hearing with respect to this matter.
5. Respondent stipulates and agrees that Respondent waives any rights Respondent may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order and, further, Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities and their respective representatives and agents from any and all liability and claims arising out of, pertaining to or relating to this matter.
6. Respondent stipulates that he has never received a complaint from any Missouri resident.
7. Respondent stipulates and agrees that, should the facts contained herein prove to be false or incomplete, the Missouri Division of Securities preserves the right to pursue any and all legal or administrative remedies at its disposal. The Securities Division stipulates and agrees that it will not take further action against Respondent based on information currently in the possession of the Division.

### **Stipulations of Fact**

8. Respondent and the Securities Division stipulate and agree to the following

## Stipulations of Fact:

9. Respondent has a residence address of 520 Liberty Avenue , Williston Park , New York 11596 .
10. Respondent has been a registered agent of LH Ross & Company, Inc. ("LH Ross"), a Missouri-registered broker-dealer since February 2, 2004. Respondent is registered in most states and with the National Association of Securities Dealers ("NASD"), however, he is not currently registered in the State of Missouri .
11. On January 30, 2004, LH Ross submitted a Uniform Application for Securities Industry Registration or Transfer ("Form U-4") to the Central Registration Depository ("CRD") for agent number 2184319 seeking to register Respondent as an agent in Missouri . Respondent's application was termed without registration in Missouri on February 18, 2004.
12. Respondent was registered in Missouri as an agent of Continental Broker-Dealer Corp. ("Continental") from November 21, 1997 to January 30, 2004. Respondent was registered through Continental in Missouri and with the NASD.
13. On January 30, 2004, Continental submitted a Uniform Termination Notice for Securities Industry Registration ("Form U-5") to the CRD for agent number 2184319 and reported Respondent's voluntary termination from the firm.
14. On January 16, 2003, the Missouri Commissioner of Securities issued a Summary Order to Cease and Desist, Summary Order to Condition and Limit Broker-Dealer Registration, and order to show cause why civil penalties should not be imposed against Continental. On June 24, 2004, the Missouri Commissioner of Securities issued a Final Order ordering Continental to Cease and Desist violations of the act, permanently barring Continental from registration and ordering Continental to pay civil penalties.
15. In April 2003, the enforcement section of the Missouri Securities Division filed a petition with the Commissioner seeking to revoke the registration of LH Ross in the State of Missouri . A Petition for Findings of Fact and Conclusions of Law regarding this matter was filed with the Administrative Hearing Commission on July 7, 2003.
16. Question 14(I) of the Form U-4 requests information about customer complaints. This question states:

**(1) Have you ever been named as a respondent/defendant in an *investment-related* consumer-initiated arbitration or civil litigation which alleged that you were *involved* in one or more *sales practice violations* and which:**

- (a) is still pending, or;
- (b) resulted in an arbitration award or civil judgment against you, regardless of amount, or;
- (c) was settled for an amount of \$10,000 or more?

**(2) Have you ever been the subject of an *investment-related*, consumer-initiated complaint, not otherwise reported under question 14I(1) above, which alleged that you were *involved* in one or more**

***sales practice violations, and which complaint was settled for an amount of \$10,000 or more?***

**(3) Within the past twenty four (24) months, have you been the subject of an *investment-related*, consumer-initiated written complaint, not otherwise reported under question 14I(1) or 14I(2) above, which:**

(a) alleged that you were *involved* in one or more *sales practice violations* and contained a claim for compensatory damages of \$5,000 or more (if no damage amount is alleged, the complaint must be reported unless the *firm* has made a good faith determination that the damages from the alleged conduct would be less than \$5,000), or;

(b) alleged that you were *involved* in forgery, theft, misappropriation or conversion of funds or securities? (Emphasis in original)

17. Each of these questions should be answered "YES" or "NO". Any question with a "YES" response requires the filing of a Disclosure Reporting Page for each reportable event.
18. Pursuant to the instructions to Form U-4, an amendment to the application should be made as changes occur.
19. The Form U-4 page entitled, *Individual Applicant's Acknowledgment and Consent* states, in part, the following:

I agree to update this form by causing an amendment to be filed on a timely basis whenever changes occur to answers previously reported. Further, I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete.

20. The Form U-4 requires that prior to submission to the CRD System the applicant or applicant's agent must attest to the completeness and accuracy of the record.
21. A review of Respondent's record with the CRD System revealed that Respondent failed to timely report customer complaints and a settlement on his Form U-4.

**Count 1**

(Failing to Timely Amend Form U-4 Disclosing Complaint and Settlement with Client 1)

22. On March 5, 2002, Respondent, while employed with Continental, received a complaint from Client 1 that alleged Respondent made false representations in the sale of securities. Client 1 alleged compensatory damages of \$605,845.
23. On May 10, 2002, Respondent and Continental settled the complaint with Client 1 and agreed to pay Client 1 \$425,000.
24. On January 9, 2004, more than 22 months after receiving this complaint and more than 19 months after settling the complaint, Respondent filed an amendment to his Form U-4 and disclosed the complaint by Client 1 and the settlement of this complaint.

25. Respondent's Form U-4 contained the statement, "I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete."
26. Respondent had a duty to timely amend his Form U-4 when the change occurred.
27. By not reporting the complaint for over 22 months and the settlement of the complaint for over 19 months, Respondent failed to timely amend his Form U-4.

## **Count 2**

(Failing to Timely Amend Form U-4 Disclosing Complaint from Client 2)

28. On August 4, 2003, Respondent, while employed with Continental, received a complaint from Client 2 that alleged Respondent made unauthorized transactions in the sale of securities. Client 2 alleged compensatory damages of \$500,000.
29. On January 28, 2004, more than 5 months after receiving this complaint, Respondent filed an amendment to his Form U-4 and disclosed the complaint by Client 2.
30. Respondent's Form U-4 contained the statement, "I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete."
31. Respondent had a duty to timely amend his Form U-4 disclosing the complaint of Client 2. Respondent's Form U-4 should have been amended when any change occurred.
32. By not reporting the complaint from Client 2 for over 5 months, Respondent failed to timely amend his Form U-4.

## **Jurisdictional Basis**

33. Respondent and the Securities Division stipulate and agree that the Commissioner has jurisdiction over these matters pursuant to Chapter 409, et al. of the 2003 Securities Act.
34. Respondent and the Securities Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Section 409.6-604(h), of the 2003 Act, which provides that the commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.

## **ORDER**

**WHEREAS**, the Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Securities Division, finds the following Order to be in the public interest, necessary for the protection of public investors and consistent with the provisions of Chapter 409, RSMo Cumulative Supp. 2003.

**NOW, THEREFORE**, it is hereby Ordered that:

1. Respondent is censured;
2. Respondent is prohibited from applying for registration in the State of Missouri for a period of 5 years;
3. Respondent is ordered to pay \$7,000 to the Missouri Investor Education and Protection Fund;
4. Respondent is ordered to pay \$1,100 to the Missouri Investor Education and Protection Fund for the costs of this investigation; and
5. Respondent shall pay this \$8,100 by paying \$4,050 upon the execution of this consent and he shall make a second payment of \$4,050 on March 1, 2005. If Respondent misses any payment the full amount remaining shall be immediately due and payable; and
6. Respondent will pay his own costs and attorney fees with respect to this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY ,  
MISSOURI THIS 25TH DAY OF JANUARY, 2005.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
DAVID B. COSGROVE  
COMMISSIONER OF SECURITIES

Consented to by:  
MISSOURI SECURITIES DIVISION

(Signed)  
Mary S. Hosmer  
Assistant Commissioner

(Signed)  
George J. Kurtis, Respondent

Approved as to form:

Timothy Feil, Counsel for Respondent  
(Signed)  
Scott Wassmuth, Esq.